

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

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Friday 27 December 2019

## Notice of Meeting

Dear Member

### Licensing and Safety Committee

The **Licensing and Safety Committee** will meet in the **Reception Room - Town Hall, Huddersfield** at **10.00 am** on **Monday 6 January 2020**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Service Director – Legal, Governance and Commissioning**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Licensing and Safety Committee members are:-**

### **Member**

Councillor Amanda Pinnock (Chair)  
Councillor Carole Pattison  
Councillor Mahmood Akhtar  
Councillor Karen Allison  
Councillor Paola Antonia Davies  
Councillor David Hall  
Councillor James Homewood  
Councillor Christine Iredale  
Councillor Michelle Grainger-Mead  
Councillor Mumtaz Hussain  
Councillor Manisha Roma Kaushik  
Councillor Terry Lyons  
Councillor Mohan Sokhal  
Councillor Kath Taylor  
Councillor Harpreet Uppal  
Councillor Michael Watson  
Councillor Cathy Scott

When a Licensing and Safety Committee member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

B Armer  
V Lees-Hamilton  
N Patrick  
R Smith  
J Taylor  
M Thompson

#### **Green**

S Lee-Richards

#### **Independent**

C Greaves

#### **Labour**

S Hall  
W Simpson

#### **Liberal Democrat**

J Lawson  
A Marchington  
A Munro  
A Pinnock



# Agenda

## Reports or Explanatory Notes Attached

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### Pages

**1: Membership of the Committee**

This is where Councillors who are attending as substitutes will say for whom they are attending.

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**2: Minutes of Previous Meeting**

1 - 6

To approve the minutes of the meeting of the Committee held on 11 June 2019.

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**3: Interests**

7 - 8

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

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**4: Admission of the Public**

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

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**5: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the

Public should provide at least 24 hours' notice of presenting a deputation.

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**6: Public Question Time**

The Committee will hear any questions from the general public.

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**7: Proposed Revision to Statement of Licensing Policy 2020-2025**

9 - 78

To consider the revised Proposed Revision to Statement of Licensing Policy 2020-2025 and recommend a course of action to Full Council on 15<sup>th</sup> January 2020.

**Contact:** Stephanie Mashiter, Senior Licensing Officer, Licensing Service Tel: 01484 221000

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**8: Licensing Service - Update Report**

The Committee will receive a verbal update on the activities undertaken to discharge the Council's licensing function from 1<sup>st</sup> April 2019 to 1<sup>st</sup> Dec 2019

**Contact:** Russell Williams, Group Leader – Licensing, Tel: 01484 221000

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Contact Officer: Carol Tague

## KIRKLEES COUNCIL

### LICENSING AND SAFETY COMMITTEE

**Tuesday 11th June 2019**

Present: Councillor Amanda Pinnock (Chair)  
Councillor Carole Pattison  
Councillor Mahmood Akhtar  
Councillor Karen Allison  
Councillor Paola Antonia Davies  
Councillor David Hall  
Councillor James Homewood  
Councillor Michelle Grainger-Mead  
Councillor Terry Lyons  
Councillor Mohan Sokhal  
Councillor Kath Taylor  
Councillor Harpreet Uppal

In attendance: Samantha Lawton, Operations Manager, Public Protection (Licensing)  
Russell Williams, Group Leader, Licensing  
David Stickley, Senior Legal Officer

Apologies: Councillor Christine Iredale  
Councillor Mumtaz Hussain  
Councillor Manisha Roma Kaushik  
Councillor Michael Watson

**1 Membership of the Committee**

Apologies for absence were received from Councillors Hussain, Iredale, Kaushik and Watson.

**2 Minutes of Previous Meeting**

The minutes of the meeting of the Panel held on 13 March and 22 May 2019 were approved as a correct record.

**3 Interests**

No interests were declared.

**4 Admission of the Public**

That all agenda items be considered in public session.

**5 Deputations/Petitions**

No deputations or petitions were received.

**6 Public Question Time**

No questions were received.

**7 West Yorkshire Policy on determining the suitability of applicants and licensees as drivers in taxi and private hire licensing**

The Committee received a report which sought approval for the adoption of the West Yorkshire policy on determining the suitability of applicants and licensees as drivers in taxi and private hire licensing.

The Committee were informed that the proposed Policy had been developed by working in partnership and considering the existing policies in place across West Yorkshire and York, the Institute of Licensing's Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades. The Driver Suitability Policy had been agreed across West Yorkshire and York, and was compliant with the new guidance.

It was noted that at its' meeting of the Licensing and Safety Committee on 11 October 2018, Members gave approval for officers to consult on the Policy. Consultation began the week commencing 5 November 2018 and ended on the 18 January 2019.

The Committee were informed that the majority of people who responded agreed with the tariffs consulted upon, apart from the minor traffic or vehicle related offences and hand held telephone / devices, where there was a mixed response, with the majority of those responding being of the view that the 5 year tariff was too high.

Having considered the responses, it was proposed that minor traffic or vehicle related offences be reduced to 3 years in line with the concerns raised by the respondents. However, notwithstanding the results of the consultation, it was proposed that the tariff for driving whilst using a hand-held telephone or other device remained at 5 years. The reason being, that it was an endorsable offence and was deemed a significant one that carried a 6 point tariff on a licence, whilst most other endorsable offences carried 3 points and so should not be confused with a minor traffic offence.

Committee members asked a number of questions, responses to which are summarised below:

- The Policy would apply to new applicants from 1 August 2019 and existing licence holders on licence renewal.
- In relation to the time periods that should elapse following an offence, the Council was still under a duty to consider each case and could depart from the time periods specified if there were serious concerns as to an individual case.
- Applicants were exempt from the Rehabilitation of Offenders Act and spent convictions were relevant. Appropriate weight would be applied to consider the time period and seriousness of the offence.
- With regards to terrorism offences, it was noted that there was the option to depart from the guidance and revoke immediately where appropriate.
- With regards to the use of weapons, it was noted that the carrying of objects such as a bat in the name of self-defence was not acceptable.



**RESOLVED - The Committee:-**

- (1) Approved the adoption of the policy on determining the suitability of applicants and licensees as drivers in taxi and private hire licensing, as presented at Appendix A of the report, and that this new policy be effective from the 1 August 2019.
- (2) Authorised the Group Leader of Licensing, in conjunction with their immediate Operational Manager and Head of Service for Public Protection, to make any minor changes necessary to the policy, to remain commensurate with the outcomes of the other West Yorkshire and York Authorities.

**8 West Yorkshire Driver Training Policy**

The Committee received a report which sought approval for the adoption of the West Yorkshire (and York) driver training policy.

The Committee were informed that the driver training policy formed part of that overall assessment of fitness and propriety. The aim was to ensure that the travelling public within West Yorkshire and York could be confident that drivers licensed by each authority had been trained to the highest standard and to a standard which was consistent across the West Yorkshire and York region.

It was noted that consultation on the policy had taken place between November 2018 and January 2019. Most of those responding to the surveys, agreed with the modules that applicants for a new licence would be trained on, but the majority did not agree with the pass mark being set to 90%. In relation to refresher training for existing licence holders, most respondents to the survey stated they did not agree refresher training should be done every three years and this response was consistent across the other West Yorkshire Authorities.

Following consideration of the survey results, Kirklees and the other five authorities had amended its proposed policy as follows:

- to reduce the pass rate from 90% to 80%
- removed the requirement that existing drivers, undertaking refresher training, to pass a test

Whilst there was a majority against refresher training, the Committee were advised that it was important that existing drivers were kept up to date with changes in legislation, conditions, good practice and any changes as result of statutory guidance. But, as previously stated, officers agreed the test element from the refresher training was not required.

**RESOLVED -** The Committee approved the adoption of the policy on driver training, as presented at Appendix A of the report and that this new policy be adopted from the 1st August 2019.

**9 Vehicle Age Policy - Upper Age Limit**

The Committee received a report which provided information as to the result of a review of the Council's private hire and hackney carriage upper age limit policy, and sought approval for one of the recommendations outlined within the report.

## **Licensing and Safety Committee - 11 June 2019**

The Committee were informed that in October 2018, members of the Licensing and Safety Committee, gave authority for officers to consult on the overarching taxi policy, with consultation then taking place between November 2018 and January 2019.

The Committee were advised that officers and the Chair of the Licensing and Safety Committee held a meeting with trade representatives in April 2019. It was noted, that the trade would like to see the upper age limit increased to 15 years old across all types of vehicles. However, the trade also considered it reasonable that the upper age limit increase to 15 years of age for certain type / class of vehicle, for example hybrids, electric and adapted vehicles / specialist vehicles.

The trade were supportive of a move to more environmentally friendly vehicles such as hybrids and electric, but felt the current upper age limit, coupled with the cost of more eco-friendly vehicles made it cost prohibitive and there would be no return on their investment if they purchased, for example, an electric vehicle for it to cease being licensed once it reached ten years of age.

A meeting was also held with officers from the Council's Transport Services, to seek views from those that test the current fleet of licensed vehicles.

Whilst officers from fleet services could see the merit in increasing the upper age limit slightly in certain circumstances, they did not support an increase to 15 years. The officers felt that it could be reasonable to increase the upper age limit to 12 years with certain conditions on that increase, such as between the age of 10 and 12, the vehicle must pass its compliance test first time, and / or the vehicle is subject to a compliance test two times per year.

Officers from fleet services were concerned regardless of the type of vehicle electric, hybrid, petrol / diesel all still have mechanical similarities such as steering, suspension and braking mechanisms etc. that can fail and that are still subject to the same wear and tear as their petrol / diesel counterparts. They also highlighted that significant mileage was undertaken by licensed private hire and hackney carriage vehicles and this wear and tear was significantly increased, irrespective of whether it was an electric, hybrid or petrol / diesel vehicle.

Licensing Officers had contacted the other West Yorkshire Authorities (including York), as well as authorities outside of West Yorkshire and found that the Council's current vehicle age policy of 10 years was in line with other nearby authorities.

It was moved and seconded that the upper age limit for licensed vehicles be increased to 12 years for ultra-low emission vehicles and wheelchair accessible vehicles, with the caveats outlined within the report's recommendations.

**RESOLVED** - The Committee approved that:-

1. The upper age limit for licensed vehicles be increased to 12 years for the following:-
  - 1.1. Ultra-low emission vehicles; and

## **Licensing and Safety Committee - 11 June 2019**

- 1.2. wheelchair accessible vehicles
2. The aforementioned upper age extension for ultra-low emission and wheelchair accessible vehicles was not automatic and each case would be dealt with on its own individual merits, taking in to consideration, but not limited to, the following:-
  - 2.1. Submission of a formal application (including fee);
  - 2.2. If extension was granted, the vehicle would be subject to two compliance tests per licence year;
  - 2.3. The vehicle had to have a full service history;
  - 2.4. Receipts of work / repairs undertaken on the vehicle;
  - 2.5. The vehicle / drivers history with the Licensing Service, including:-
    - 2.5.1. If the vehicle had failed any previous compliance test;
    - 2.5.2. Complaints about the condition of the vehicle;
    - 2.5.3. Complaints about the proprietor / driver of the vehicle; or
    - 2.5.4. Any other matters considered material to the application.
3. Delegation be authorised to the Group Leader of Licensing, in conjunction with their immediate Operational Manager, to determine the definition of a wheelchair accessible vehicle for stipulation within the Policy.

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<b>KIRKLEES COUNCIL</b>				
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>				
<b>DECLARATION OF INTERESTS</b>				
Licensing and Safety Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  
if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**Name of meeting:** Licensing and Safety Committee

**Date:** Monday 6<sup>th</sup> January 2010, at 10.00am – Reception Room,  
Huddersfield Town Hall, Ramsden Street, Huddersfield

**Title of report:** Proposed Revision to Statement of Licensing Policy 2020-2025.

**Purpose of report:** To consider the revised policy and recommend a course of action  
to Full Council

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not applicable</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>Not applicable</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not applicable</b>
<b>Date signed off by <a href="#">Strategic Director</a> &amp; name</b>	<b>Russell Williams as agreed by Karl Battersby</b>
<b>Is it also signed off by the Service Director (Finance)?</b>	<b>[to be inserted]</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>[to be inserted]</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Rob Walker</b>

**Electoral wards affected:** ALL

**Ward councillors consulted:** ALL

**Public or private:** Public

## GDPR Implications:

GDPR has been considered and appropriate sections of the report have been amended.

## 1 Summary

- 1.1 The purpose of this report is for members of the Licensing and Safety Committee to consider a proposed revised Statement of Licensing Policy, issued under the Licensing Act 2003. The Licensing Act 2003 requires the Council, in its capacity as Licensing Authority to review its statement of licensing policy every five years.
- 1.2 This revision of the policy does not propose any major amendments, with the changes that have been made summarised as follows: –
- 1.3 A copy of the revised proposed policy can be seen at Appendix A. The main changes proposed include:
  - The structure of the policy
  - Expanding guidance around promoting the four Licensing Objectives.
  - Adding guidance in relation to the Equalities Act 2010.
  - Expanding guidance on completing operating schedule
  - Updating information on Closure Notices, Reviews and Expedited reviews.
  - Updating the guidance on safeguarding.

## 2 Information required to take a decision

### 2.1 Introduction

- 2.1.1 The Licensing Act 2003 requires each authority to carry out its various licensing functions so as to promote the following four licensing objectives;
  - Prevention of Crime and Disorder
  - Prevention of Public Nuisance
  - Public Safety
  - Protection of Children from Harm
- 2.1.2 To achieve these objectives, the authority is required to publish a Statement of Licensing Policy every five years. The policy is what the authority will generally apply to promote the four licensing objectives when making decisions on applications applied for under the Licensing Act 2003.
- 2.1.3 The Statement of Licensing Policy provides guidance for everyone from applicants who require direction on how to apply for a licence to residents who may wish to make a formal representation against an application.
- 2.1.4 The draft policy must be considered and approved by the Licensing & Safety Committee before being presented to Full Council for formal adoption.

### 2.2 Licensing Policy

- 2.2.1 Under Section 5 of the Licensing At 2003, the Secretary of State may make regulations governing the determination and revision of policies and the preparation and publication of policy statements.
- 2.2.2 The Licensing Authority will give appropriate weight to the views of those consulted in respect of the draft policy. In determining what weigh



give a particular representation, the factors that will be taken into account should include;

- Who is making the representations (what is their interest);
- Relevance to the four licensing objectives;
- How many other people have expressed the same or similar views;
- How far the representation relates to the matters that the licensing authority should be including in its statement of policy.

2.2.3 It is important to demonstrate that in reviewing responses to the consultation, due weight and consideration has been given to all representations including, where appropriate, why some (if any) have been disregarded. This is so that in the event that the policy is challenged, the Authority can make evident to a court how it arrived at the policy.

## 2.3 Secretary of State Guidance

In considering this proposed revised policy Members must have regard to guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. The Secretary of State's Guidance at paragraph 1.11 and 1.12 provides:–

*1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.*

*1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step [...]*

## 3 **Implications for the Council**

### 3.1 **Working with People**

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

The proposed revised policy aims to support the Council in achieving this objective.

### 3.2 **Working with Partners**

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

### 3.3 **Place Based Working**

Working closely with Responsible Authorities the Licensing Authority, by having a robust licensing policy, can address issues within the districts that make up Kirklees.

### **3.4 Improving outcomes for children**

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective, and the guidance laid down in this proposed revised policy.

### **3.5 Other (e.g. Legal/Financial or Human Resources)**

It is a legal requirement of the Licensing Act 2003 that the Council is required to review and publish a statement of licensing policy every five years. The policy, or any part of it, can be reviewed at any time within that five year period.

In preparing this report due consideration has been given to the Council's equality duties under the Equality Act 2010 and an Integrated Impact Assessment has been carried out. The assessment indicated the proposed revised policy had no specific discriminatory impact. A copy of the Integrated Impact Assessment can be found at - <https://www.kirklees.gov.uk/beta/delivering-services/integrated-impact-assessments.aspx>

There are no direct financial implications associated with this report.

### **3.6 Climate Change**

The introduction of the policy is taken into account in the IIA above. The Council will continue to work with taxi drivers and others to raise awareness of Climate change and the need for them to consider the impact of their activities on it

## **4 Consultation**

- 4.1 The proposed revised policy attached (Appendix A) has been consulted on in accordance with the requirements of the Licensing Act 2003. A list of those consulted can be found at Appendix B.
- 4.2 Consultation took place between 4<sup>th</sup> November 2019 and 15<sup>th</sup> December 2019; with five responses being received.
- 4.3 The responses, along with officer's comments on those responses, and any proposed amendments as a result, are attached at Appendix C.

## **5 Next steps and timelines**

- 5.1 Members are asked to consider the proposed revised Statement of Licensing Policy, taking into account the responses to the consultation and any proposed amendments as a result of the consultation.
- 5.2 This will then be considered by Council on the 15<sup>th</sup> January 2020. It is proposed that the new policy be introduced with effect from 15<sup>th</sup> January 2020.

## **6 .Officer recommendations and reasons**

- 6.1 Once Members have considered the proposed revised policy Members are asked to make a formal recommendation to Members at the 15<sup>th</sup> January 2019 Full Council that the proposed revised policy attached at Appendix A be adopted as the Councils Statement of Licensing Policy for the forthcoming five year period.
- 6.2 Members of the Panel are, after consideration of this report and the draft policy requested to recommend adoption of the Policy to Full Council and its policy for the next five years, with effect from 15<sup>th</sup> January 2020.
- 6.3 As set out above the reason for this is because the Council is required to review its Licencing Policy every 5 years

## **7 Cabinet portfolio holder's recommendations**

- 7.1 Councillor Rob Walker, Cabinet Member for Culture and Environment recommends that the proposed revised policy be put to Full Council for adoption.

## **8 Contact officer**

Stephanie Mashiter, Senior Licensing Officer, Licensing Service  
Tel: 01484 221000 ext. 70530  
Email: [stephanie.mashiter@kirklees.gov.uk](mailto:stephanie.mashiter@kirklees.gov.uk)

## **9 Background Papers and History of Decisions**

- 9.1 Appendix A – Copy of the Proposed Revision to Statement of Licensing Policy 2020-2025
- 9.2 Appendix B – List of consultees
- 9.3 Appendix C – Consultation responses

## **10 Strategic Director responsible**

Karl Battersby – Strategic Directory, Economy and Infrastructure  
Tel: 01484 221000  
Email: [karl.battersby@kirklees.gov.uk](mailto:karl.battersby@kirklees.gov.uk)

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## Licensing Policy

**2020 – 2025**

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## 1 Executive Summary

- 1.1 Under the provisions of the Licensing Act 2003 ('the 2003 Act'), Kirklees Council ('the Council') is the Licensing Authority for the administration and enforcement of the 2003 Act, associated orders and regulations within its administrative district.
- 1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council must have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.
- 1.3 The Council's Corporate Plan (2018-2020) is a two year document which sets out our shared outcomes, aims and impact measures. It includes our strategic vision, which is for Kirklees is to be a district which combines a strong, sustainable economy with a great quality of life – leading to thriving communities, growing business, high prosperity and low inequality where people enjoy better health throughout their lives.

It also sets out our seven shared outcomes, plus a cross-cutting one, which have been developed with partners, and describes what we are all working to achieve for the people of Kirklees. The outcomes are set out below;

- Children have the best start in life.
  - People in Kirklees are as well as possible for as long as possible.
  - People in Kirklees have aspiration and achieve their ambition through education, training, employment and lifelong learning.
  - People in Kirklees live in cohesive communities feel safe and are safe/protect from harm.
  - People in Kirklees experience a high quality, clean, sustainable and green environment.
  - Kirklees has sustainable economic growth and provides good employments for and with communities and businesses.
  - People in Kirklees live independently and have control over their lives.
  - Cross-cutting outcomes – Kirklees works smart and delivers efficiently and effectively.
- 1.4 This policy sets out how the Licensing Authority will deal with applications made under the Act. It sets out in detail who can make a representation under the Act. The policy contains a clear commitment not to use licensing provisions to duplicate other legislation.



- 1.5 This policy refers to the impact of licensing on cultural strategies. The policy also sets out the Licensing Authority's approach to integrating licensing with respect to other local plans and strategies, and to cumulative impact and special policies.
- 1.6 The Licensing Authority's approach to licensing hours and the presence of children on licensed premises is set out. The policy states that standard **operating** conditions will not be applied to licences. The policy considers the process of reviewing a premises licence or club premises certificate, and sets out the approach to enforcement. **The policy also sets out the Licensing Authority's commitment to a shared responsibility between organisations and agencies to safeguard and promote the welfare of all children and vulnerable adults in the local area.**
- 1.7 The Licensing Act 2003 gives the council additional opportunities to further its **four** corporate priorities. The powers and duties contained within the Act will complement and reinforce the council priorities. The Council will be able to build on its existing excellent record of working with and consulting with partners to help to achieve the objectives of the Act.

## **2 Purpose**

- 2.1 The Policy is prepared to meet the requirements of the Licensing Act 2003 and is done so in accordance with Section 5 of the same Act. **It will be kept under review and as a minimum will be reviewed no later than 2025.**
- 2.2 **In preparing this policy, the council has consulted with and considered the views of a wide range of people and organisations including:**
- **Elected members – ward councilors and local members of parliament**
  - **Representatives of local businesses**
  - **Local residents and their representatives**
  - **Parish and Town councils**
  - **Representatives of existing licence holders**
  - **Kirklees Community Safety Partnership**
  - **Kirklees Drugs Action Team**
  - **Council Services**
  - **The responsible authorities, namely:**
    - **West Yorkshire Police**
    - **West Yorkshire Fire and Rescue Service**
    - **Kirklees Council – Environmental Health**
    - **Kirklees Council – Planning**
    - **Kirklees Council – Public Health**
    - **West Yorkshire Trading Standards**
    - **Secretary of State (Immigration Enforcement)**

**This policy was reviewed between April 2019 and December 2019, and the revised policy will come into force January 2020.**

- 2.3 This policy has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 2.4 The Licensing Authority will carry out its functions under the Licensing Act 2003 with a view to promoting the four licensing objectives contained in the Act and each has equal weight.
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 2.5 The Council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interest of all its residents, it will not tolerate irresponsible licensed activity. Following relevant representations, the Licensing Authority will refuse applications, restrict hours and activities, or impose conditions where it is appropriate to do so to promote the licensing objectives and/or use effective enforcement to address premises where there are problems, in partnership with key agencies such as West Yorkshire Police, Trading Standards, Immigration Enforcement and other crime and disorder reduction partnerships.
- 2.6 The Policy is concerned with the regulation of licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions that the Council attaches to various licences will focus on matters that are relevant to the four licensing objectives, and will centre upon the premises that are being used for licensable activities.
- 2.7 The Licensing Authority will monitor the effect of this Policy throughout the period it covers through licensing liaison meetings with representatives of licence holders, such as PubWatch meetings and also by way of regular meetings with the responsible authorities.
- 2.8 The Policy has four main purposes:
- To provide the basis for elected Members to make decisions on applications.
  - To inform licence applicants of the basis on which decisions will be taken and therefore give some indication of how they will be able to operate.
  - To inform the wider community of the basis on which decisions will be taken and therefore how their needs will be addressed.
  - To inform the Courts how decisions have been made and to support those decisions.

- 2.9 The Policy balances the objective of improving the local economy, tourism, and cultural development against noise, nuisance, safeguarding and crime and disorder.
- 2.10 The Policy covers the following licensable activities **within the Kirklees district, as defined by the Licensing Act 2003**:
- The sale of alcohol.
  - The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
  - The provision of regulated entertainment.
  - The provision of late night refreshment.
- 2.11 **The principles set out within this Policy apply equally to new applications, applications for variations and consideration of any request to review a licence.**
- 2.12 The Licensing Authority recognises that the 2003 Act is not a mechanism for a general control of nuisance, anti-social behaviour and environmental crime by individuals once they are away from the premises and beyond the direct control of the licence holder. The Licensing Authority will not therefore, attempt to control such through its exercise of licensing functions. The licensing process can only seek to control those measures within the control of the licensee, and in the 'vicinity' of the premises. Whether or not incidents can be regarded as being in the 'vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of each individual case. The Licensing Authority will focus primarily on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area.
- 2.13 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. **If an application is lawfully made and no relevant representations are made in respect of an application, the Licensing Authority is under a duty to grant the licence on the terms sought. Only if relevant representations are made will the Council's discretion be engaged.**
- 2.14 The policy will promote the licensing objectives through the issue of licences and the assessment of notices covered by the Act. These are
- Personal Licences for individuals – necessary where alcohol is to be sold or provided on premises.

- Premises Licences and Club Premises Certificate – subject to suitability of premises and measures taken by applicant
- Temporary Event Notice – simplified process for events of a smaller scale.

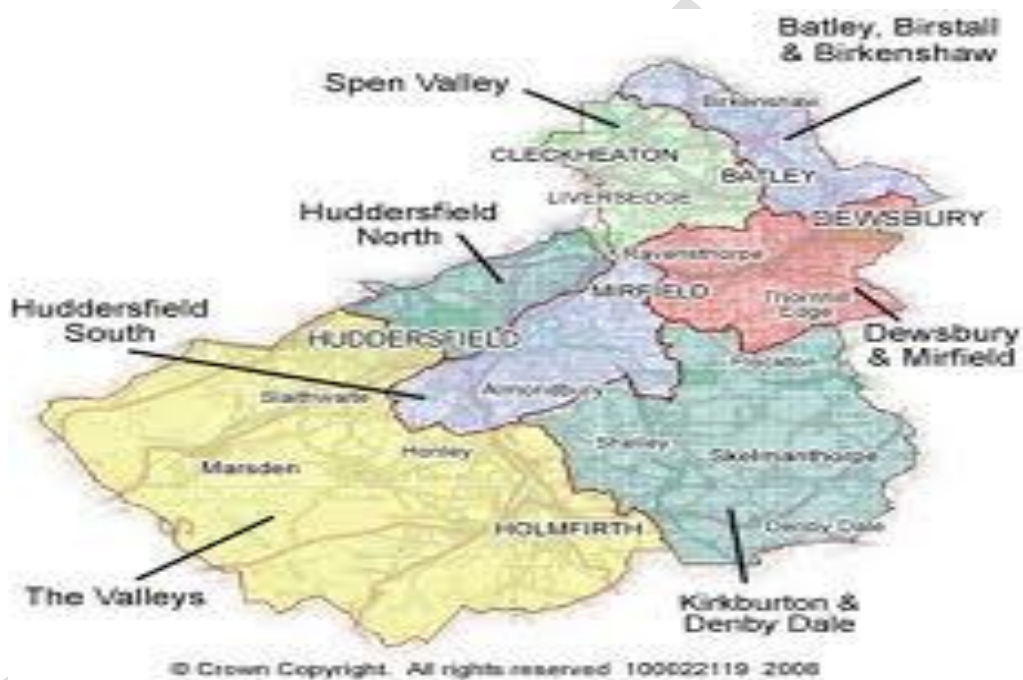
2.15 The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Full reasons should be given to justify any departure from this policy.

2.16 Applicants for premise licences should be aware of the expectations of the Licensing Authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives. Applicants should demonstrate knowledge of their local area when describing the steps they propose to take to address these.

2.17 Advice on whether a licence is required for premises or an event can be obtained by contacting Licensing direct on 01484 456868. Contact details can be found at [Kirklees.gov.uk](http://Kirklees.gov.uk).

### 3 Kirklees

- 3.1 Kirklees Council is situated in West Yorkshire, which contains five metropolitan councils in total. The Council area has a population of approximately 440,000 making it the largest metropolitan district not based on a city in terms of population. In terms of area, it is the third largest in West Yorkshire, covering 157 square miles. The council area is mainly rural in the south with a central urban area around the large towns. The area also comprises of several smaller towns of varying sizes. These areas are shown on the map below:



- 3.2 There are around 1698 licensed outlets including pubs, nightclubs, registered clubs, off licences, cinemas, theatres, casinos, bingo halls, community halls, and takeaways etc. These are spread across the district. Licensed premises are located across the district of Kirklees, offering a diverse selection of leisure and entertainment to visitors. It is recognised that these businesses provide social and community spaces, facilities for residents and business, and a vital support infrastructure for related sectors such as retail and tourism

The district of Kirklees covers 254 square miles and stretches from the high moor lands of the Pennines (including part of the Peak National Park) in the West to the edges of Bradford, Leeds and Wakefield in the East. The M62 motorway traverses the northern edge of the district. Being at the centre of the country with excellent transport links makes Kirklees easy to get to from all areas of the country.

The main towns are Huddersfield, Dewsbury and Batley with many other smaller towns. The area is essentially split into east and west with the former being mainly industrial and densely populated and the latter rural in nature.

Night time activity centres on the towns and the Bradford Road corridor near Batley.

- 3.3 Kirklees has a varied population – many ethnicities are represented, speaking a range of languages, and bringing a cultural diversity to the region. A thriving student community based around the University of Huddersfield attracts students from around the world. Life expectancy and healthy life expectancy (the number of years lived in good health) are increasing across Kirklees.

The people of Kirklees represent many cultures, faiths, languages and races. A wide range of minority groups including Pakistani, Indian, Black Caribbean as well as many other smaller communities make up almost 21% of the population.

- 3.4 The Kirklees Partnership brings together public, private and voluntary sector representatives along with community members. It has produced a Sustainable Community Strategy aimed at bringing about significant improvement in Kirklees. The Partnership's strategic aims and the most up to date Partnership Plan can be found at [Kirklees.gov.uk](http://Kirklees.gov.uk).

## 4 Other Policies, Objectives and Strategies

- 4.1 In preparing the Policy the Licensing Authority has been driven by the policies, aims and objectives set out under the Council's top-tier plans. These include:

- Kirklees Council Corporate Plan 2018-2020
- Joint Health and Wellbeing Strategy for Kirklees
- Kirklees Economic Strategy and Corporate Plan
- Communities Partnership Plan
- Strategic Intelligence Assessment
- Drug and Alcohol Strategy for Kirklees
- Kirklees Partnership Sustainable Community Strategy
- Kirklees JSNA (Joint Strategic Needs Assessment) Crime and Community Strategy
- Public Rights of Way Improvement Plan 2010 – 2020
- Creative Kirklees
- The Unitary Development plan and the Emerging Local Development Framework
- Local Area Agreements
- Kirklees Partnership Alcohol Strategy
- Tourism Visitor Strategy
- Equality & Diversity Strategy 2012 – 2016
- Kirklees Safer Communities Strategy
- Place Directorate Enforcement Strategy

- 4.2 Details of these, and other relevant plans and strategies which affect and are affected by the Kirklees Licensing Policy can be found at the Council's website – [www.kirklees.gov.uk](http://www.kirklees.gov.uk)
- 4.3 Wherever possible the Policy is intended to promote other policies and strategies for the wider cultural benefit of communities. The Licensing Authority will monitor the impact of the Policy to ensure that it does not unnecessarily deter or prevent cultural or community events, or have a negative impact on other cultural or community activities.
- 4.4 Protocols will be developed to ensure the Policy will take into account the ongoing needs of local tourism, the cultural strategy and regeneration activities in the area.
- 4.5 The effects of licensing activity in the area will be fed into local transport plans so that proper regard can be taken of the need to disperse people away from town centres swiftly and safely at all times of the day and night.
- 4.6 The Licensing Authority is aware of its obligations under equalities legislation and the **Public Sector Equality Duty Local Government Equality Standard**. The **implementation of the Act will be monitored and its impact of this Policy on Kirklees employees, residents and service users has been on different communities in Kirklees** assessed using the Council's Equality Impact Assessment tool. The Policy aims to ensure that every citizen receives equal opportunity, rights and treatment when applying for licences and making representations.
- 4.7 The Council (through its Licensing Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the Committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives, it may have regard to them when making licensing decisions.
- 4.8 The Committee may, after receiving such reports, make recommendations to the Council or other bodies about the impact of the Licensing Policy on such policies, strategies and initiatives. Equally, the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the Licensing Policy. This may include recommendations to amend the Licensing Policy itself.

## **5 Promotion of the Licensing Objectives**

- 5.1 The Council will carry out its functions under the Licensing Act 2003 with a view to promoting the four licensing objectives:
- The prevention of crime and disorder
  - Public safety

- The prevention of public nuisance
  - The protection of children from harm
- 5.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the Council at all times.
- 5.3 It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 5.4 The Council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 5.5 Applicants are reminded that responsible authorities or other people may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.
- 5.6 The Council recommends early consultation with responsible authorities. Many responsible authorities have produced guidance which applicants can take into account when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities in the Kirklees district are available on the Council's website.

### **Crime and Disorder**

- 5.7 Under the Crime and Disorder Act 1998, the Council must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.
- 5.8 Where its discretion is engaged, the Council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports local crime reduction strategies.
- 5.9 There are many steps an applicant may take to prevent crime and disorder. The Council will look to the police for the main source of advice on these matters.



- 5.10 If relevant representations are made in relation to a premises licence or a club premises certificate, the Council will consider whether it is necessary to impose conditions to regulate behaviour of customers accessing or utilising premises in order to adequately promote the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave. Conditions will be targeted on deterrence and the prevention of crime and disorder.
- 5.11 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity, and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to the occasional use of the premises for adult entertainment.

#### **Public Safety**

- 5.12 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises.
- 5.13 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The Council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 5.14 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 5.15 Applicants are advised to consult with the Environmental Health department, who can offer advice as to appropriate measures to be included in risk assessments, and potentially in operating schedules, and also in relation to workplace health and safety matters. On receipt of relevant representations, the Council will have regard to the views of the Environmental Health department.
- 5.16 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on the premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence on each individual case, these types of conditions may be considered.

- 5.17 Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.

### **Public Nuisance**

- 5.18 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on people living and working in the area around the premises which may be disproportionate and unreasonable.
- 5.19 The Council is aware that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance, affecting only a few local residents, as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of people living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 5.20 Where applicants are completing operating schedules, the Council encourages them to have regard to the location of the proposed or actual premises, and in particular whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship.
- 5.21 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 5.22 If relevant representations are made, the Council will consider whether it is necessary to impose conditions to regulate the behaviour of customers accessing or utilising premises in order to adequately promote the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The Council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 5.23 The Council will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.

- 5.24 When considering such matters, the Council will have regard to representations made by Environmental Health Services and by local residents.
- 5.25 The Council recognizes that it is necessary to balance the rights of local residents, businesses and others, with those wishing to provide licensable activities, and those who wish to use such facilities.
- 5.26 Ultimately, if it is necessary, for the prevention of public nuisance where conditions do not adequately address the issues, an application can be refused.

#### **Protection of Children from Harm**

- 5.27 The Council recognizes the Kirklees Safeguarding Children Partnership (KSCP) as the responsible authority for the protection of children from harm.
- 5.28 The protection of children from harm includes protection from physical and psychological harm.
- 5.29 The Council notes that the admission of children to premises holding a premises licence or club premises certificate should be freely allowed unless there is good reason to restrict entry or exclude children completely.
- 5.30 Issues about access of children to premises may give rise to concern in some situations, including but not limited to:
- Where adult entertainment is provided on an occasional basis and is not already licensed under other legislation
  - Where there have been convictions of the current management for serving alcohol to minors
  - Where the premises have a reputation for allowing under-age drinking
  - Where requirements of proof of age is not the norm
  - Where premises have a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.
- 5.31 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk.

- 5.32 On receipt of relevant representations, the Council will consider whether conditions are necessary. In such cases, representations by Kirklees Safeguarding Children Partnership (KSCP) and the Police will be given considerable weight where they address issues regarding the admission of children.
- 5.33 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. Schemes such as Challenge 25/Check 25 volunteered as part of an operating schedule will be given the appropriate weight when the Council determines the licence application.
- 5.34 No condition will be imposed by the Council requiring the admission of children to any licensed premises except in the case of exhibition of film, where a mandatory condition is applied to all licences with this activity.

### **Online Sales of Alcohol and Delivery of Alcohol**

- 5.35 The Licensing Authority recognises offering online sales of alcohol is a legitimate way in which to operate a business. However, applicants wishing to provide online ordering and deliver of alcohol should pay particular attention to how they will verify a person ordering alcohol online or accepting a delivery of alcohol, is over the age of 18. Applicants should ensure they have a robust age-verification policy in place both at the point of order and in particular at the point of delivery.
- 5.36 Guidance suggests that your couriers or delivery drivers should be instructed to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

### **Consultation**

- 5.1 In order that the Policy links effectively with the other initiatives mentioned above and is founded on a sound basis, a wide consultation of stakeholders has taken place in its preparation.
- 5.2 Some consultees are statutory but the Licensing Authority recognises the need for a wider consensus if the Policy is to be effective. In view of this the following have been consulted:
- Elected Members.
  - West Yorkshire Police.
  - West Yorkshire Fire Service.
  - Representatives of local businesses.
  - Representatives of local residents.
  - Representatives of existing licence holders.

- Kirklees Community Safety Partnership.
- Kirklees Drugs Action Team.
- Council Services e.g. Planning, Highways, Environmental, Culture and Leisure, etc.

This policy was reviewed between April 2019 and December 2019, and the revised policy will come into force January 2020

5.3 The Policy will be formally reviewed every five years. Notwithstanding this mechanisms will be established to determine whether the licensing objectives are being satisfied on an ongoing basis. Should the ongoing scrutiny reveal the necessity for change, the Policy can be formally reviewed before the end of the five year period.

## 6 General Principles

- 6.1 In determining a licensing application, the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 by the Secretary of State. Where it is necessary to depart from the guidance or this policy, the Council will give clear and cogent reasons for doing so.
- 6.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.

### Human Rights

- 6.3 The European Convention on Human Rights makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

Article 6 - that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

- Article 8 - that everyone has the right to respect for his home and private life.
- Article 1 - of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example a licence.

### Protection of Privacy and Data

- 6.4 In line with General Data Protection Regulation and Data Protection Act 2018, the Council are Data Controllers of the information you provide as part of your licence application. The Council have a duty to process and maintain licences and permissions, and conduct enforcement activities in accordance with the Licensing Act 2003. This means the Council are duty bound to serve information on responsible authorities. This is part of a legal obligation to meet the requirements for the licensing of the sale of alcohol, regulated entertainment and late night refreshment.
- 6.5 We may, if necessary, share certain information pertaining to licensed premises or individuals with third parties. These may include other services within the Council (e.g. the Greenspace Action Team), or external third parties including, but not limited to, the Information Commissioner's Office, the Health and Safety Executive, West Yorkshire Joint Services and West Yorkshire Fire and Rescue Service. This information will be shared in order to make further enquiries regarding your application under the Licensing Act 2003 or where required by law for the detection and prevention of crime.
- 6.6 The Council's corporate privacy notice, which includes details of the authority's Data Protection Officer and your information rights is available at: <https://www.kirklees.gov.uk/beta/information-and-data/how-we-use-your-data.aspx>

### **Equality Act 2010**

- 6.7 The Council is committed to eliminating unlawful discrimination, harassment and victimization, advancing equality of opportunity and fostering good relations within and between our communities.
- 6.8 It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation. The Act makes it unlawful to discriminate against anyone because of:
- Age
  - Being or becoming a transsexual person
  - Being married or in a civil partnership
  - Being pregnant or on maternity leave
  - Disability
  - Race including colour, nationality, ethnic or national origin
  - Religion, belief or lack of religion/belief
  - Sex
  - Sexual orientation

Further guidance is available at

<https://www.gov.uk/guidance/equality-act-2010-guidance#guidance-on-the-equality-act>

- 6.9 The Council cannot enforce the Act, but those who experience discrimination may take legal action following a complaints procedure. Where complaints are received by the Council, we advise the complainant of their rights under the Equalities Act.

#### **Other Regulatory Regimes**

- 6.10 The Policy is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators. e.g. The Health and Safety at Work, etc. Act 1974, The Environmental Protection Act 1990, the Fire Safety Regulatory Reform Order, Violent Crime Reduction Act 2006, Cleaner Neighbourhoods Act, Smoke-free Legislation.
- 6.11 Conditions in respect of public safety will only be attached to licences if they are appropriate for the promotion of that licensing objective.

## Safeguarding

- 6.12 The licensing authority is committed to a **shared responsibility between organisations and agencies to safeguard and promote the welfare of all children and vulnerable adults in the local area.** **protecting children from harm and views this as an important licensing objective.**
- 6.13 The **Council's licensing team** **Licensing Authority** worked with **the Council's** Children's Services and Adult Services during the development of **licensing this** policy where the protection of **children vulnerable individuals** is concerned. Intelligence sharing and the exchange of current strategy developed by the Kirklees Safeguarding Children Partnership ensure that the protection of children from harm remains key.
- 6.14 The Licensing Authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.

## Exploitation

- 6.15 Alcohol is also often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement **(Jay, 2014).**
- 6.16 Kirklees Safeguarding Children **Partnership (KSCP)** works with other statutory authorities **(Local Authority, Police and Public Health)** and will engage with the licensing trade to promote risk management in relation to child sexual exploitation. The **KSCP** can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.
- 6.17 The Licensing Authority encourages license holders and operators of licensed premises:
- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and
  - To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.



- 6.18 The Kirklees Safeguarding Children Partnership has a webpage dedicated to providing local information about child safety, child sexual exploitation, policies and procedures including risk factors and signs and symptoms:  
<http://www.kirkleessafeguardingchildren.co.uk/>
- 6.19 The licensing authority has though taken account of the view of the Government that the use of licensed premises by children should be encouraged.
- 6.20 The Licensing Authority will not seek to require that access to any premises is given to children at all times. Under normal circumstances this will be left to the discretion of the licensee. However the Licensing Authority strongly recommends that applicants address the access of children in the operating schedule.
- 6.21 The Licensing Authority will also not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 6.22 Areas that will give rise to particular concern in respect of children include the following premises, the list is not exhaustive:
- Where entertainment of a sexual or adult nature is commonly provided.
  - Where there have been convictions of members of staff for serving alcohol to minors or there is a reputation for underage drinking.
  - Where there is a known problem with sales of alcohol for consumption off the premises by underage persons.
  - Where there is a known association with drug taking or dealing.
  - Where there is a strong element of gambling (not the simple presence of a small number of cash prize gaming machines)
  - Where the supply of alcohol for consumption is the exclusive or primary purpose of the services provided.
- 6.23 The Licensing Authority welcomes and supports any campaign aimed at preventing underage consumption of alcohol
- 6.24 In these circumstances the conditions which are likely to be attached to any licence are:
- Limitations on the hours when children will be permitted.
  - Stating a minimum age for access by children.
  - Limiting or prohibiting access when certain activities are taking place.
  - Permitting access only when the child is accompanied by an individual aged 18 years or over.
  - A combination of the above.
  - A full exclusion of all individuals aged under 18 years.

- 6.25 The Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Where applicants intend children to be present on licensed premises or where the sale of alcohol takes place the Licensing Authority will expect the Code of Practice to be fully implemented.
- 6.26 In the case of premises giving film exhibitions the Licensing Authority will expect licensees or clubs to include in their operating schedule arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the Licensing Authority itself.
- 6.27 The Licensing Authority expects that employers will make careful checks where premises or entertainment is specifically targeted towards children to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity. An example of such a check would be the completion of a Criminal Records Bureau check to the appropriate standard.

#### **Impact of Licensing Activity**

- 6.28 The Licensing Authority will determine any application by considering the Act, the statutory guidance, this Policy and the four licensing objectives including how it may support other key aims, strategies and objectives.
- 6.29 The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):
- The type of use, the numbers and type of customers likely to attend the premises;
  - The proposed hours of operation;
  - The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that would be used by the customers;
  - The adequacy and impact of car parking on local residents or businesses;
  - The scope for mitigating any impact.
  - How often the activity occurs.
- 6.30 The Licensing Authority, where necessary and appropriate, may also consider the impact low cost alcohol may have and the potential for it to encourage harmful drinking.
- 6.31 In considering any application for a variation the Licensing Authority may also take into account:
- Historical evidence, whether favourable or adverse, relating to activities carried out at the premises, especially on local residents or businesses

- Where adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

## Representations

- 6.32 In relation to premises licences and club premises certificates, the Licensing Authority must consider relevant representations as part of its determination. Relevant representations can only be made by interested parties or responsible authorities within prescribed time periods. Where the Licensing Authority is of the opinion that representations are frivolous or vexatious, the 2003 Act prohibits them being considered as relevant representations.
- 6.33 Relevant representations relate to:
- matters about the likely effect of the grant of a premises licence or club premises certificate on the promotion of the licensing objectives; or
  - a proposed designated premises supervisor if made by the Chief Constable.
- 6.34 Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do.
- 6.35 Responsible authority means any of the following:
- The Chief Officer of Police
  - The local Fire & Rescue Authority
  - The local enforcement authority for the Health & Safety at Work etc. Act 1974
  - The local authority with responsibility for environmental health
  - The local planning authority
  - A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm
  - The local weights & measures authority (trading standards); and
  - The relevant Licensing Authority, and any other Licensing Authority in whose area part of the premises is situated.
  - Each local authority's Director of Public Health (DPH)
- 6.36 In relation to a vessel:
- A navigation authority having functions in relation to waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be navigated at a time when it is used for licensable activities;
  - The Environment Agency
  - The British Waterways Board

- The Secretary of State for Transport, acting through the Maritime and Coastguard Agency.

6.37 In promoting the licensing objectives, the Licensing Authority will, for reasons of appropriateness and efficiency, refer complaints about licensed premises/club premises/temporary events or licensed individuals to its own appropriate service team (e.g. Health & Safety, Pollution & Noise Control) or to another agency (e.g. West Yorkshire Police, West Yorkshire Fire & Rescue Service) for their consideration, in accordance with any enforcement protocols.

6.38 As well as responsible authorities mentioned above, any other person can make representations to licensing authorities. A person may also request that a representative makes the representation to the licensing authority on their behalf. For example, a legal representative, a friend, a Member of Parliament, a member of the National Assembly for Wales, or a local ward or parish councillor could all act in such a capacity.

6.39 Nothing in this policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

#### **Delegation**

6.40 The Licensing Authority will appoint a Licensing Committee **of 15 Councillors**. Licensing decisions will generally be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the Licensing Authority.

6.41 Many of the decisions will be purely administrative in nature and the Licensing Authority will operate the delegations **in line with the Council's 'Scheme of Delegation' which is published on the Council's website – [www.kirklees.gov.uk](http://www.kirklees.gov.uk)**. **highlighted in Appendix D to achieve the correct balance between proper consideration of applications and an efficient use of resources.**

6.42 If no relevant representations are received and the operating plan sufficiently demonstrates steps to promote the licensing objectives, the application will be granted.

~~6.43~~ During the licensing process where representations are received and the issues raised are relevant and cannot be resolved by mediation, the application will be heard by Elected Members **as indicated in Appendix D.**

6.44 Every decision made whether by the Licensing Committee, the Sub- Committee or by officers shall be accompanied by clear reasons for that decision.

- 6.45 Where a Councillor who is a member of the Licensing Committee or Sub-Committee has a prejudicial interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.

## **7 Personal Licences**

- 7.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all material times but if any sales are made when a Personal Licence Holder is not present, then they must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the actions of those he authorises to make such sales.
- 7.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 7.6 to 7.8 8.33 to 8.35 on the role of the 'Designated Premises Supervisor'.
- 7.3 The Licensing Authority recognises that it has no discretion regarding the granting of personal licenses where the applicant:
- is 18 years or over;
  - possesses a licensing qualification;
  - has not been convicted of a relevant offence and
  - has not forfeited a licence in the last five years.
- 7.4 An application must be made in the form specified by regulation and must be accompanied by the requisite fee together with evidence of the relevant licensing qualification.
- 7.5 Applicants must also produce one of the following:
- from the DBS (Disclosure and Barring Service) a criminal conviction certificate issued under S.112 of the Police Act 1997
  - from the DBS, a criminal record certificate issued under S.113 of the Police Act 1997
  - the results of a subject access search under the Data Protection Act 1998 of the Police National Computer by the national Identification Service and,

In any case such a certificate or search results shall be issued no earlier than one calendar month before the giving of the application to the relevant licensing authority.

- 7.6 Where the application discloses relevant unspent convictions the Licensing Authority will notify the police of that application and the convictions. The police may then make objection on the grounds of an unspent relevant or foreign offence. If an objection is lodged a hearing has to be held.
- 7.7 The Licensing Authority will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.
- 7.8 All personal licence holders should note that on their first appearance in any court, when charged with a relevant offence (see Annex C of Guidance under section 182 of the Licensing Act 2003); they must declare their status as a holder of a personal licence to that court. Where subsequently convicted they must declare that conviction to the Licensing Authority.

## **8 Premises Licences and Club Premises Certificates**

### **Application Process**

- 8.1 When processing applications the Licensing Authority will not be influenced by the question of need. Need for any particular premise is a commercial matter or it may be part of a Planning consideration.
- 8.2 An application for a premises licence or a club premises certificate must be made in the form specified by regulation. The form must be accompanied by the requisite fee and a floor plan indicating the safety features of the premises such as alarm systems, access and egress points, fire doors, fire extinguishers, etc.
- 8.3 The applicant must also send copies of completed application forms and operating schedules to the responsible authorities named in Appendix A and advertise the application on or near the premises in accordance with the relevant regulations.
- 8.4 Applicants must provide an operating plan with the application. The plan must include those matters that are prescribed by the Act.

- 8.5 The plan is crucial as it demonstrates to the Licensing Authority how the applicant will meet the four licensing objectives. It must therefore contain sufficient information to allow the Licensing Authority to determine the licence and ought to include an assessment of the risks associated with the application.
- 8.6 The Licensing Authority strongly recommends that applicants seek advice from the appropriate agencies, for example West Yorkshire Police and West Yorkshire Fire Service prior submitting the operating plan
- 8.7 The applicant must conduct an assessment of issues based upon the potential for crime and disorder and it is strongly recommended this is carried out in consultation with local police. Where any crime prevention measures are agreed, they should be implemented in accordance with the West Yorkshire Police Licensing Policy - Crime Prevention Measures. Failure to involve the local police at an early stage may result in them making representations against the application.
- 8.8 Guidance on what the Licensing Authority expects and on the completion of operating plans is provided in Appendix B. Notwithstanding this plans must be completed in a manner specific to an application rather than in general terms.
- 8.9 The Licensing Authority requests that holders of a premises licence are requested to make timely applications for variation of the designated premises supervisors. Applicants should note that the legislation allows West Yorkshire Police to object to the designation in order to promote the crime prevention objective.
- 8.10 Any application not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the application correctly before it is accepted by the Licensing Authority.
- 8.11 The council may use the information submitted in any application form for any licence and/or permission provided for under the terms of the Act for the purpose of its statutory function(s) in its capacity as the relevant Licensing Authority.
- 8.12 The Council may disclose all such information to its agents or service providers. The Licensing Authority may also share this information with other Council services.

### **Planning and Building Regulations**

- 8.13 The use of premises for sale or provision of alcohol, provision of entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is usually required for the establishment of a new premises or change of use of premises.
- 8.14 In general, all premises that are the subject of an application under the Licensing Act may also need to seek the appropriate planning permission, or be deemed permitted development. The grant of a Premises Licence or Club Premises Certificate does not negate the need to seek and be granted any required planning consent.
- 8.15 In addition, it is also the responsibility of the applicant to ensure that any necessary building control approval has been obtained where structural alterations have taken place.
- 8.16 A hearing on any licence application will not consider whether any decision to grant or refuse planning permission was lawful and correct. The licensing process is not a re-run of the planning process.
- 8.17 In order to ensure proper integration, reports on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder may be taken to the Planning committee.

#### **Licensing Hours**

- 8.18 The Government states that flexible licensing hours may reduce the level of conflict / anti-social behaviour / disorder caused by concentrations of young drinkers, allowing a more gradual dispersal of customers from premises.
- 8.19 The Council accepts that use of more flexible hours can provide customers and businesses with a greater choice and may help to promote the evening economy in Kirklees, particularly in our town centers. However there is no general presumption in favor of lengthening licensing hours and the four licensing objectives should be paramount.
- 8.20 The Licensing Authority will consider supporting longer hours where:
- There is likely to be no significant effect on crime and disorder or public nuisance.
  - The operating schedule clearly demonstrates that the applicant is taking appropriate measures to minimise any adverse effects on residents and businesses in the vicinity. Measures to reduce the impact of customers using external facilities in and around premises (e.g. beer gardens, car parks, and pavements) are increasingly important, since the introduction of the Health Act 2006 (smoke free premises)



- Transport facilities are available to take customers away from the venue.

8.21 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open unless there are very good reasons for restricting those hours.

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## Operating Schedules

- 8.22 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. They are expected to have regard to the Council's Statement of Licensing Policy. They must also be aware of the expectations of the Licensing Authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote these.
- 8.23 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 8.24 Whilst applicants are not required to seek the views of the responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The Council encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimize the scope for disputes to arise.
- 8.25 Although not a licensing objective, matters relating to public health and alcohol are an important factor to consider, and applicants may find it useful to contact Kirklees Public Health team for advice on how to reduce potential negative impact alcohol can have on the residents of Kirklees and for support on operating responsibly.
- 8.26 Applicants may find contacting their local ward Councillor helpful. Councillors provide a voice to the people living in the ward they represent. They are aware of the needs of their community and are in touch with the issues that local people face. As well as influencing council decisions on funding and development, they work with other organisations, such as the police, local schools and health services, to help bring about improvements to services and the environment for their local community.
- 8.27 The Council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on, rather than in general or standard terms. Information should be given to demonstrate how the individual applicant proposes to address and promote the licensing objectives.

- 8.28 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by the Council.

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## **Conditions**

- 8.29 The Licensing Authority will only impose conditions on a licence (other than the statutory mandatory conditions) which are appropriate for the promotion of the licensing objectives, following scrutiny of the applicants operating plan and any relevant representations.
- 8.30 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 8.31 The Licensing Authority may also impose conditions other than those set out in the guidance, in circumstances where this is appropriate to properly promote the licensing objectives.
- 8.32 More stringent conditions will usually be considered on new or variation applications or when reviewing a licence where applicants have a previously documented failure to comply with licence conditions.
- 8.33 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the Council.

## **Designated Premises Supervisors**

- 8.34 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 8.35 The Licensing Authority accepts that not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be authorised by such a licence holder. The Licensing Authority would normally expect that personal licence holders give specific written authorisation to individuals that they are authorising to sell alcohol on their behalf. This would assist personal licence holders in demonstrating due diligence. Although the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales made.
- 8.36 The requirements relating to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises where a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the Licensing Act 2003.

## **Live Music, Dancing and Theatre**

- 8.37 The Live Music Act 2012 extends the range of live music performances that can take place without a licence under the 2003 Licensing Act. Where live music performances and other regulated entertainment impacted by the Live Music Act 2012 are licensable, the Council, when determining which conditions should be attached to licences and certificates are aware of the need to avoid measures which deter live music and dancing and theatre etc. by imposing indirect costs of a disproportionate nature. The Licensing Authority is aware that the absence of cultural provision can itself lead to young people being diverted into anti-social behaviour.

## **9 Early Morning Alcohol Restrictions Orders (EMARO)**

- 9.1 The power conferred on licensing authorities to make, vary or revoke an EMARO is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31<sup>st</sup> October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.
- 9.2 The power enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it satisfied that this would be appropriate for the promotion of the licensing objectives.
- 9.3 EMARO's are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 9.4 Further information on the process of requesting and implementing EMAROs can be found within the Government's Section 182 Guidance to Licensing Authorities.
- 9.5 There are currently no EMARO's in place in Kirklees.

## **10 The Late Night Levy**

- 10.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late night economy, and the reduction or prevention of crime and disorder.

- 10.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate, in relation to premises in the authority's area, which authorises the sale or supply of alcohol on any days during the period beginning at or after midnight and ending at or before 6am (late night supply period).

~~10.3 Further information on the implementation and charging structure for late night levies can be found at:~~

~~[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/183490/Late-night\\_levy\\_guidance\\_\\_amended\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/183490/Late-night_levy_guidance__amended_.pdf)~~

- 10.4 Currently Kirklees Licensing Authority area does not have a late night levy.

## **11 Cumulative Impact Assessments**

- 11.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 11.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- Planning and Environmental controls.
  - Positive measures to create cleaner greener and safer environment
  - Provision of CCTV.
  - Provision of transport facilities including taxi ranks
  - Police enforcement and closure powers
  - Joint agency action to address under age and binge drinking.
- 11.3 The Policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour and environmental crime once consumers are away from the vicinity of the premises.
- 11.4 There are places in the area which on occasion raise concerns in relation to numbers of people congregating in and moving around certain confined locations and the effect of this on crime and disorder, public safety and public nuisance. This is particularly so at night time when large numbers of alcohol-fuelled revellers are present. However the Policy does not propose to undertake a full cumulative impact assessment at this time.

- 11.5 The Licensing Authority, in consultation with the police and other relevant parties, will regularly review the issue of cumulative impact in light of the practical experience of the operation of the Licensing Act 2003 and of the demand for premises licences. Such reviews will be conducted as part of regular liaison meetings.
- 11.6 Any imposition of special provisions to combat the effect of cumulative impact will only be introduced after widespread consultation, including those bodies/persons indicated in section 5(3) of the Act, and the establishment of clear evidence of a problem and its links with licensed activities. Any special policy, once adopted, will be the subject of regular reviews.
- 11.7 Should special provisions be introduced they will not be applied universally or override the right of each application to be dealt with on its merits. Where licences are unlikely to add significantly to the cumulative impact, the presumption is that they will be granted.

## **12 Temporary Events**

- 12.1 The system of permitted temporary activities is intended as a light touch process and as such, the carrying on of licensable activities does not have to be authorised by the Licensing Authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the 'premise user') gives notice to the Licensing Authority of the event (a 'temporary event notice' or TEN).
- 12.2 Temporary Event Notices make provision for small scale, one-off events. This could be in a situation where a venue does not benefit from a premises licence, or where the premises licence does not meet the need of a particular function on a particular night.
- 12.3 Temporary event notices are subject to various limitations. These are concerned with:
- The number of times a premise user may give a TEN ( 50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
  - The number of times a TEN may be given for any particular premises (12 times in a calendar year);
  - The maximum duration of an event authorised by a TEN is 168 hours (7 days);
  - The maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year)
  - The maximum number of people attending at any one time (fewer than 500); and

- The minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 12.4 The most important aspect of the system of temporary event notices is that no permission is required for these events from the Council. In general, only the police or Environmental Health may intervene to prevent such an event or modify the arrangements for such an event. The Council will only intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 12.5 Many premise users giving temporary event notices will not have commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The Council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 12.6 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event. The notice periods do not include the day the authority receives the notice or the day of the event.
- 12.7 The Council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through multi agency forum meetings.
- 12.8 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

**Police or Environmental Health intervention in relation to TENs**



- 12.9 The Act provides that in exceptional circumstances, the police or Environmental Health may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The Police or Environmental Health must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 12.10 The ability of Police and Environmental Health to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local Police and Environmental Health at the earliest possible opportunity about their proposals.

#### **Additional limitations**

- 12.11 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.
- 12.12 The Act defines an associate as being:
- the spouse or civil partner of that person;
  - a child, parent, grandchild, grandparent, brother or sister of that person; or
  - an agent or employee of that person;
  - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 12.13 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

### **13 Review of a Premises Licence or Club Premises Certificate**

- 13.1 The Licensing Authority recognises the importance of its ability to review premises licences. The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance and the protection of children from harm. Partnership working is important to achieve the promotion of the licensing objectives. Responsible Authorities are encouraged to give licensees early warning of any concerns identified at a premise.

13.2 Responsible Authorities and other persons can apply for the review of a premise licence or club premises certificate. At a Licensing Panel hearing, reasons should be given for any decisions, and details recorded of any conditions to be attached to the licence. A copy of the decision notice will be kept on the relevant premises file.

13.3 The Licensing Authority must, having regard to the application and any relevant representations, take such steps mentioned below (if any) as it considers **necessary** **appropriate** for the promotion of the licensing objectives.

The steps are:

- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
- To exclude a licensable activity from the scope of the licence (permanently or temporarily)
- To remove the Designated Premises Supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence

13.4 In cases where the crime prevention objective is being undermined through the premises being used for criminal activities, it is expected that revocation of the licence, even in the first instance, will be seriously considered.

**13.5** For cases which are being considered as a result of a review or potential enforcement action, the council will take into account all relevant circumstances, but will view the following matters particularly seriously:

- Use of premises for criminal activities, such as the supply of drugs or money laundering
- Failure to promptly respond to a warning properly given by a responsible authority
- Failure to engage with the responsible authorities in an effective manner
- Previous convictions for licensing offences
- Previous failure to comply with licence conditions

13.6 Where there has been a request for a review, the Licensing Authority must advertise that an application for a review has been made. Further representations may then be made within 28 days from the original application for review. A hearing must be held within 20 working days of the end of the 28 day period. Anyone who has made a representation and who wants to attend the hearing must inform the Licensing Authority at least 5 working days before the day of the hearing.

13.7 Appeals against licensing decisions will be heard by Magistrates Court

#### Closure Orders

13.8 Where a Magistrates Court makes a Closure Order under Part 8 of the Licensing Act 2003 on the grounds of disorder, the Council must carry out a review of the licence.

13.9 Where a Magistrates Court makes a Closure Order under Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014, the police or the Council's Public Protection section may request a review of the licence.

#### Expedited Reviews

13.10 The provisions in the Licensing Act 2003, inserted by Section 21 of the Violent Crime Reduction Act 2006, allow for a quick process to attach interim conditions to a licence and to fast track a licence review when a senior police officer submits a certificate alongside a review application stating that, in their opinion, the premises concerned is associated with serious crime or serious disorder (or both).

13.11 On receipt of an application for an expedited review of a premises, the Licensing Authority shall, within 48 hours, supply a copy of the review and certificate to the premises licence holder and consider whether it is necessary to take any interim steps pending the completion of the review process. These steps may include:

- The modification of the conditions of the premises licence
- The exclusion of the sale of alcohol by retail from the scope of the licence
- The removal of the Designated Premises Supervisor from the licence; and
- The suspension of the licence

## 14 Enforcement

14.1 The Licensing Authority has adopted the **Place Directorate Enforcement Strategy** **Kirklees Guide to Enforcement**, which sets out the Council's general approach to enforcement in the district. ~~establishes enforcement protocols which will target.~~ The policy includes restorative practice and justice (where available) and the aim is to encourage the development of the use of education and behaviour change where appropriate. This will allow for greater attention to high risk premises and lighter touch approach to those which are well maintained and managed and represent a lower risk. **This can be found on the Council website – [www.kirklees.gov.uk](http://www.kirklees.gov.uk)**

- 14.2 Where appropriate the Licensing Authority will work in partnership with other agencies in enforcement around the licensing objectives.
- 14.3 Enforcement activity will be directed using intelligence from many sources including other services, and agencies.
- 14.4 Risk is linked to many issues but one of these will be premises encouraging excessive drinking via aggressive drinks promotions leading to nuisance and disorder.
- 14.5 The Licensing Authority will consider whether other direct powers should be used to address a problem for example Police, Fire and Environmental Services have their own powers.
- 14.6 The ~~Place Directorate Enforcement Strategy~~ **Kirklees Guide to Enforcement** is intended to protect the public, the environment, consumers and workers through:
- Providing clear advice and guidance to help businesses and residents meet their responsibilities
  - Enforcing the law in a fair, equitable and consistent manner
  - Assisting broadly compliant businesses to meet their legal obligations
  - Taking firm action where it is necessary and appropriate to do so
  - Trained professional officers who monitor compliance
- ~~Key principles of consistency, transparency and proportionality will be maintained.~~
- 14.7 The Licensing Authority will maintain an online register of licences and licence applications which can be accessed via the Council's website.
- 14.8 Where Responsible Authorities or other parties make representations in connection with the licensing objectives, in order to seek a review of a licence, provided the representations are not frivolous, vexatious or repetitious, the Licensing Authority will review the licence.

## 15 Appendices

### 15.1 Appendix A: Contact Information – Licensing Authority, responsible authorities/useful contacts

#### 15.1.1 Licensing Authority

Kirklees Council – Licensing Department  
Flint Street  
Fartown  
Huddersfield  
HD1 6LG  
Tel: 01484 456868  
[licensing@kirklees.gov.uk](mailto:licensing@kirklees.gov.uk)

#### 15.1.2 Responsible Authorities

Kirklees Primary Care Trust  
Public Health Directorate  
Kirklees Council  
Civic Centre 1 - 4th Floor North  
High Street  
Huddersfield  
HD1 2NF  
[publichealthlicensing@kirklees.gov.uk](mailto:publichealthlicensing@kirklees.gov.uk)

Kirklees Safeguarding Children Partnership  
3<sup>rd</sup> Floor Somerset Building  
Church Street  
Huddersfield  
HD1 1DD  
Tel: 01484 221000  
[KSCB.Admin@kirklees.gov.uk](mailto:KSCB.Admin@kirklees.gov.uk)

West Yorkshire Police Licensing Office  
Flint Street Depot  
Fartown  
Huddersfield  
HD1 6LG  
Tel: 01484 456868  
[Rw913@westyorkshire.pnn.police.uk](mailto:Rw913@westyorkshire.pnn.police.uk)

Home Office – Immigration  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
[alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)

Kirklees Environmental Health  
Pollution & Noise Control / Health & Safety  
Flint Street Depot  
Fartown  
Huddersfield  
HD1 6LG  
Tel: 01484 221000  
[Environmental.health@kirklees.gov.uk](mailto:Environmental.health@kirklees.gov.uk)

West Yorkshire Trading Standards  
PO Box 5  
Nepshaw Lane South  
Morley  
Leeds  
LS27 0QP  
Tel: 0113 2530241  
[licensing@wyjs.org.uk](mailto:licensing@wyjs.org.uk)

Kirklees Council Planning Services  
Development Control  
PO Box B93  
Civic Centre III  
Huddersfield  
Tel: 01484 221000  
[planning.contactcentre@kirklees.gov.uk](mailto:planning.contactcentre@kirklees.gov.uk)

Fire Protection Department  
Oakroyd Hall  
Birkenshaw  
BD11 2DY  
Tel: 0113 3875738  
[Fire.safety@westyorksfire.gov.uk](mailto:Fire.safety@westyorksfire.gov.uk)

### 15.1.3 Useful Contacts

British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley  
Surrey  
GU15 3PT  
Tel: 01276 684449

Security Industry Authority (SIA)  
PO Box 1293  
Liverpool  
L69 1AX  
Tel: 0844 8921025  
[www.the-sia.org.uk/register](http://www.the-sia.org.uk/register)

NCFE  
Q6 Quorum Business Park  
Benton Lane  
Newcastle Upon Tyne  
Tel: 0191 2398000

Disclosure & Barring Service  
PO Box 110  
Liverpool  
L69 3EF  
Tel: 0870 9090822

City and Guilds  
1 Giltspur Street  
London  
EC1A 9DD  
Tel: 020 7294 2468

Huddersfield Magistrates Court  
PO Box B37  
The Court House  
Civic Centre  
Huddersfield  
Tel: 01484 423552

## 15.2 Appendix B – Operating Plan considerations

15.2.1 The operating plan is a key document in the licensing process. It is one of the primary means by which the Licensing Authority and the consultees can assess whether the licensing objectives have been satisfied within a particular application.

15.2.2 The following is a list of matters to which applicants should give consideration, if relevant to the premises in question. Applicants should note the outcome within the operating plan. Please note the matters are not exhaustive and it is recognised that some may fall outside the remit of the Act. Notwithstanding this, if all the matters have been addressed they are more likely to lead to a successful, safe well managed premise.

15.2.3 The matters are listed under each of the four licensing objectives:

### Crime and Disorder

- Within the trading hours requested, consideration of the times within which alcohol is to be sold or supplied, other times at which the premises are to be open to the public, drinking up time, last entry policies etc.
- Crime prevention through application of ‘secure by design’ principles to the premises e.g. all areas visible from the bar. The use of CCTV systems, both within and outside the premises, installed and operated under West Yorkshire Police guidelines.
- Regular participation in the local ‘Pubwatch’ group run in partnership by a volunteer group of licence holders, and attended by invited representatives of West Yorkshire Police, other local authority services and sister agencies. These informal meetings present an opportunity for two way dialogue on local issues.
- Applicants are encouraged to consider whether the designated premises supervisor is expected to be on the premises at all times when the sale or supply is taking place. Where this will not be the case, then arrangements should be put in place to ensure proper management of the venue and licensable activities.
- Whether door supervisors (licensed under the Security Industry Authority) and other security measures are required in respect of the venue and the licensable activities proposed. Supervision inside and outside the premises by properly trained staff can have a significant impact on crime and disorder, and therefore public safety in and around the premises, by for example: the non-admission of persons who are drunk, screening for weapons and drugs, dealing with disorderly behaviour. Premises may operate an incident book to log events involving crime and disorder.
- Measures to combat drug dealing and the use of drugs in the premises. The Licensing Authority and West Yorkshire Police support the guidance detailed in the Safer Clubbing Guide produced by the Home Office – this guide can be viewed at [www.csdp.org/research/safer-clubbing-txt.pdf](http://www.csdp.org/research/safer-clubbing-txt.pdf)

- Participating in the retail radio scheme in the town centre areas covered by the Council's CCTV centre and the police can help to minimise disorder occurring within the vicinity of premises.
- Operating 'proof of age checks to combat underage drinking e.g. proof of age card schemes carrying a PASS logo, passport or photo driving licences.
- Methods to discourage the handling and distribution of stolen, counterfeit or other illegal goods.
- Any policies for the use of toughened, shatterproof or polycarbonate/plastic glasses and the refusal to serve drinks in glass bottles. Preventing the removal of glasses and bottles from premises and timely clearing of empties from internal/external drinking areas can also prevent them being used as weapons.
- Measures to exclude known troublemakers and those identified under local banning schemes or anti-social behaviour orders.
- Security in premises seeking to sell alcohol for consumption off the premises. Displayed stock may be sited to be in view of staff at all times and/or covered by CCTV and spirits may be kept behind the counter.
- Level of transport facilities available to aid customers in leaving premises quickly and quietly.

#### Public Safety

- Demonstrate that proposed occupancy levels are safe and that sufficient management control exists to prevent the levels being exceeded. Where the premise is split into different parts it would be prudent to identify the occupancy for each individual part.
- Provision of adequate sanitary accommodation – for advice contact Kirklees Environmental Health, Health and Safety Section (see Appendix A)
- Reasonable access and facilities for people with disabilities including the safe evacuation of disabled persons, identifying the staff trained to implement emergency egress plans, sanitary accommodation, etc.
- Details of the management arrangements put in place to ensure adequate installation, testing, maintenance and certification of the following.
  - fire detection and alarm systems
  - firefighting equipment/fire suppression systems
  - emergency lighting system
  - electrical installation to the premises
  - portable electrical appliances
  - music cut out systems
  - fire retardant treatments for materials used in drapes, furnishings and
  - decorations, include for frequency of treatment



- heating systems and cooking appliances e.g. gas boilers/pressure systems
- hot and cold water systems e.g. certain air con units re: Legionella

And make general fire precautions. Fire safety features should be denoted on the floor plans accompanying the licence application.

- Details of the regime for regular inspection and maintenance of structural elements such as walls, floors, roof members, beams, mezzanine floors, stairs, lintels, ceilings etc. It is similarly important to ensure that the integrity of materials providing fire resistance to these elements of structure is also maintained.
- Written procedures for the inspection and maintenance of items of general housekeeping e.g.
  - escape routes are kept clear with escape doors being easily operable without the use of key, card, code or similar means
  - fire doors and the door operating furniture
  - fire safety signs are adequately illuminated
  - removable security fastenings are removed from exit doors whenever the premises are open to the public or occupied by staff
  - damage to furnishings and fabrics
  - guarding to stairs, balconies, landings and ramps
  - general condition of floor surfaces (e.g. trip hazards, non-slip surfaces)
  - provision of safety glazing and manifestation in critical locations
  - suspended decorations, lights and amplification systems
  - guarding to fires, candles and open flames
  - edges of treads to steps and stairways are kept conspicuous
  - systems for the collection of glass and bottles
- Controls exercised by management of premises, regarding any drinks promotions
- Safety measures when hot food and drink is prepared in close proximity to the public
- Number of first aid trained staff with suitable equipment to provide first aid on the premises. Training may include treatment to those persons affected by drugs or alcohol, including the policy of providing free drinking water.
- Transport facilities serving premises do not provide a safety hazard at points where customers leave the premises.
- Means for controlling noise levels to prevent damage to the hearing of employees and to the public visiting premises.

- A number of the above issues may be contained within Health and Safety Policies, which will form any part of any Operating Plan (for guidance on H & S Policies contact Kirklees Environmental Health, Health and Safety Section – see Appendix A)

### Public Nuisance

- With reference to the proposed hours of operation and audibility at noise sensitive premises in the vicinity, the measures taken to prevent noise and vibration emanating from within premises and from external sources (under the control of the applicant) causing nuisance or disturbance, such as:-

- amplified and non-amplified music levels
- singing and speech
- disposal to waste and bottle bins
- plant and machinery (including extract systems)
- food preparation, the cleaning of premises and equipment
- noise associated with vehicles arriving at and departing from the premises
- e.g. car doors, horns, stereos, engine noise etc
- firework displays etc

### Measures may include:-

- the installation/adoption of soundproofing
- air conditioning to allow windows to be kept closed
- sound limitation devices
- use of lobby doors
- cooling down period with reduced music levels at the end of the night
- adopting hours of operation appropriate to the activities in question and the location
- adopting a schedule for the delivery of goods and collection of waste at times appropriate for the locality
- advice notices and announcements requesting customers and staff to behave with 'good conduct' to neighbouring premises.
- controls exercised by management over excessive drinking encouraged by drinks promotions
- arrangements to prevent disturbance by customers leaving the premises or congregating or queuing outside premises, this being of most importance between the hours of 11pm to 7am
- identifying good transport facilities that serve the venue

- In considering applications from pubs, clubs, concert venues and similar premises and activities, the Licensing Authority expects licensees to have regard to any guidance published, such as Good

Practice Guide on the Control of Noise from Pubs and Clubs published by the Institute of Acoustics, the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council, and to other local, regional or national standards.

- Particular care must be taken where the noise source is in the open air, e.g. beer garden, car park, access roads, or queues.
- Other potential causes of nuisance to which consideration should be given:
  - Light is a category of statutory nuisance. Exterior lighting should be carefully sited, directed and operated so as not to cause disturbance to occupiers of nearby premises.
  - Arrangements to prevent the release of noxious odours affecting the occupiers of adjacent premises.
  - Steps taken to prevent any impact of inadequate refuse storage or littering on the surrounding area, including the responsible use of flyers or promotional materials.
- Fly posting should not be used to promote events
- For further information relating to public nuisance please contact Kirklees Environmental Health, Pollution and Noise Control Section – see Appendix A

#### Protection of Children from Harm

- Times within which children, whether accompanied or not, will be allowed access to whole or any part of the premises – will restrictions be specified by a notice at the entrance
- At premises or events where entertainment is specifically targeted towards children employers take steps to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity e.g. Disclosure and Barring Services check to the appropriate standard.
- In the case of 'children only' events, for example, an under 18 disco, production of a play, a pantomime or similar event, provision of a suitable number of adult supervisors to children on the premises.
- The normal minimum ratio will be one supervisor per 50 children plus one supervisor for each floor and supervisor for each exit e.g. this would mean at an event where 300 children are expected, which take place on premises which have 2 floors and 4 exits there would need to be 6 supervisors for the capacity of the premises, plus 2 for the two floors, plus 4 for the number of exits giving a total of 12 supervisors on duty throughout the duration of the event.
- Supervisors should receive instruction on fire procedures and be made aware of all dangerous equipment particularly 'backstage' to ensure supervision of children performing at such premises.
- Arrangements for safe entry and departure from the premises

- Precautions to avoid unsupervised children being seated in the front row of a balcony or box.
- Arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the Licensing Authority itself. NB licensees should note that this is a mandatory condition required by s20 Licensing Act 2003
- Limiting use of special effects which can trigger adverse reactions, especially with regard to children
- Operating 'proof of age' checks to combat underage drinking e.g. proof of age card schemes carrying a PASS logo, passport or phot driving licences.
- Compliance with the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks to be fully implemented
- Steps taken to ensure the safety of play areas and equipment
- Any arrangements to supply children's drinks in safety glasses or bottles
- Provision of safe child seating for young children in premises selling meals
- Any provision of smoke free areas
- Provision of child friendly lavatories, family toilet and nappy changing facilities

### 15.3 Appendix C – Other reading

[www.culture.gov.uk](http://www.culture.gov.uk) – Government website showing full versions of Licensing Act 2003 and Secretary of State's Guidance issued under Section 182 of Licensing Act

The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999), (The Purple Book), ISBN 0 7176 2453

Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804

The Guide to safety at Sports Grounds (the Stationary Office 1997) (The Green Guide) ISBN 0 11 300095 2

Safety for Street Arts, Carnivals, Processions and Large Scale Performances published by the Independent Streets Arts Network, copies which may be obtained through [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)

Good Practice Guide on the Control of Noise from Pubs and Clubs – published by the Institute of Acoustics, 77A St. Peter's Street, St. Albans, Hertfordshire AL1 3BN (tel. 01727 848195) – March 2003.

Code of Practice on Environmental Noise Control at Concerts (1995) – published by The Noise Council (ISBN 0 900103515). Available from the Chartered Institute of Environmental Health Library (0207 8275821) or from [information@CIEH.org](mailto:information@CIEH.org)

Alcohol Harm Reduction Strategy for England – Prime Minister's Strategy Unit, Admiralty Arch, The Mall, London SW1A 2WH ([www.strategy.gov.uk](http://www.strategy.gov.uk))

Kirklees Drug and Alcohol Strategies – available from Kirklees Safe and Cohesive Communities, Civic Centre 1, High Street, Huddersfield (tel. 01484 224291)

Safer Clubbing Guide (reducing harm from drug use in club environments) – available from Drug Prevention Advisory Service ISBN 1840827807 ([www.drugs.gov.uk](http://www.drugs.gov.uk))

Responsible Retailing of Alcohol: Guidance for the Off Trade – available from the Association of Convenience Stores ([www.thelocalshop.com](http://www.thelocalshop.com)) tel. 01252 515001

West Yorkshire Police Licensing Policy – available from the Licensing Officer, Flint Street Depot, Fartown, Huddersfield, HD1 6LG. Tel: 01484 456868

Kirklees Planning Services – 'Going Smokefree' – A planning advice note on smoking shelters and related features [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning)

Home Office „Practical Guide for Preventing and Dealing with Alcohol Related Problems  
[www.alcoholpolicy.net](http://www.alcoholpolicy.net)

Home Office Designated Public Place Order (DPPO) Guidance [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

LACORS/TSI Code of Practice on Test Purchasing [www.lacors.gov.uk](http://www.lacors.gov.uk)

### Related Legislation

The Live Music Act 2012

Police and Social Responsibility Act 2011 Policing and Crime Act 2009

Anti-Social Behavior Act 2003 / Crime and Disorder Act 1998 / Crime and Security Act 2010

Criminal Justice and Police Act 2001 / Private Security Industry Act 2001

Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 The  
Clean Neighbourhoods and Environment Act 2005 / The Health Act 2006 Violent Crime  
Reduction Act 2006

Relevant case law regarding policy statements

Limits of Licensing policy: BBPA & Others v Canterbury City council (2005) EWHC 1318  
(Admin)

‘Strict’ licensing policies and exceptions to policy: R (Westminster City Council) v  
Middlesex Crown court and Chorion plc (2002) LLR 538

Cumulative impact policies and hours: R (JD Wetherspoon plc) v Guildford Borough council  
(2006) EWHC 625(admin)

Duplication and conditions: R (on the application of Bristol Council) v Bristol Magistrates  
Court (2009) EWHC 625 (Admin)

Extra Statutory notification by the Licensing Authority: R (on the application of Albert  
court Residents Association and others) v Westminster City Council (2010) EWHC 393  
(Admin)

The prevention of crime and disorder: ambit of the objective: Blackpool Council, R (on the  
application of) v Howitt (2008)

#### 15.4 Appendix D – Delegation

Sub-committee is comprised of 3 members of the full licensing committee.

Matters to be Dealt with	Full Licensing Committee	Sub-Committee	Officers
Application for Personal Licence		If a police objection made	If no objection made
Application for Personal Licence with unspent convictions		If a police objection made	If no objection made
Application for Premises Licence / Club Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence / Club Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a police objection made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a police objection made	All other cases
Application for Interim Authority		If a police objection made	All other cases
Application to review Premises Licence / Club Certificate		All cases	
Decision on whether a complaint is irrelevant / frivolous / vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Responsible Authority objection to a Temporary Event Notice (Police / Environmental Health)		All cases	

## 15.5 Appendix E Glossary of terms

### 15.5.1 Licensable Activities

- a) the sale by retail of alcohol;
- b) the supply of alcohol by or on behalf of a club to, or to the Order of, a member of the club;
- c) the provision of regulated entertainment;
- d) the provision of late night refreshment.

### 15.5.2 Qualifying Club Activities

- a) the supply of alcohol by or on behalf of a club to, or to the Order of, a member of the club;
- b) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place, and
- c) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

### 15.5.3 Regulated Entertainment

- a) a performance of a play,
- b) an exhibition of a film,
- c) an indoor sporting event,
- d) a boxing or wrestling entertainment,
- e) a performance of live music,
- f) any playing of recorded music,
- g) a performance of dance,
- h) entertainment of a similar description to that falling within paragraph (e), (f) and (g), where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

### 15.5.4 As a result of the amendments to the Licensing Act 2003 by the 2012 Live Music and 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00 and 23:00 on any day:

- Performance of a play in the presence of any audience of no more than 500 people.
- An indoor sporting event in the presence of any audience of no more than 1000 people
- The performance of dance in the presence of an audience of no more than 500 people.
- Live music where the live music comprises :—
  - a performance of unamplified live music



- a performance of live amplified music in a work place with an audience of no more than 200 people or;
- a performance of live music on licensed premises which takes place in the presence of an audience of no more than 200 people.

15.5.5 Exemptions for the provision of entertainment and entertainment facilities — note if alcohol is to be supplied, or late night refreshment provided, a licence will be required for those activities:

- i) for the purposes of or purposes incidental to religious services or meetings or at places of public religious worship
- j) morris dancing or dancing of a similar nature
- k) incidental music
- l) garden fetes
- m) film exhibitions for the purposes of advertisement, information, education, etc.
- n) use of television or radio receivers
- o) vehicles in motion

15.5.6 Interested Parties

- a) a person living in the vicinity of the premises,
- b) a body representing persons who live in that vicinity,
- c) a person involved in a business in that vicinity,
- d) a body representing persons involved in such businesses.

15.5.7 Responsible Authority

- a) the chief officer of police for any police area in which the premises are situated,
- b) the fire authority for any area in which the premises are situated,
- c) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (C.8) for any area in which the premises are situated,
- e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimizing or preventing the risk of pollution of the environment or of harm to human health,
- f) a body which:
  - a. represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - b. is recognized by the Licensing Authority for that area for the purposes of this section as being competent to advise it or such matters.

- g) any Licensing Authority (other than the relevant Licensing Authority) in whose area part of the premises is situated;
- h) Primary Care Trusts (PCTs)<sup>3</sup> and Local Health Boards (in Wales); and
- i) the local weights and measures authority (trading standards).
- j) in relation to a vessel;
  - a. a navigation authority (within the meaning of Section 221(1) of the Water Resources Act 1991 (C.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities.
  - b. the Environment Agency;
  - c. the British Waterways Board, or
  - d. the Secretary of State;
  - e. a person prescribed for the purposes of this subsection.

#### 15.5.8 Temporary Event

The use of the premises for one or more of the licensable activities during a period not exceeding 168 hours usually where a premises licence covering the licensable activity is not in place — see ‘limitations’ in paragraph 7.21.

#### 15.5.9 Late Night Refreshment

A person “provides late night refreshment” if:-

- a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
- b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises,

unless the supply is an exempt supply by virtue of paragraph 3, 4 or 5 of Schedule 2 to the Act.

#### 15.5.10 Hot Food or Hot Drink

Food or drink supplied on or from any premises is “hot” for the purposes of this schedule if the food or drink, or any part of it:-

- a) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
- b) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

#### 15.5.11 Personal Licence

A licence which:-

- a) is granted by a Licensing Authority to an individual, and
- b) authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.

#### 15.5.12 Premises Licence

A licence which authorises the premises to be used for one or more licensable activities.

#### 15.5.13 Representations

- a) Relevant – If it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives
- b) Frivolous – Frivolous representations would essentially be categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant.
- c) Vexatious – Vexation may arise because of disputes between rival businesses or persons.
- d) Repetitious – A repetitious representation would be categorised by its similarity to a
- e) previous representation which has already been decided upon.

#### 15.5.14 Disclosure of Convictions – Disclosure and Barring Service (DBS)

A disclosure showing all convictions held at national level which are not spent – for contact details see appendix A

#### 15.5.15 Licensing Authority

Reference to the Licensing Authority in this policy indicates Kirklees Council operating in its role specified under the Licensing Act 2003, and not in any other role.

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For the proposed revised Licensing Act 2003 Statement of Policy 2020 -2025, the Council consulted with the following -

- All Kirklees Councillors
- All Responsible Authorities
- West Yorkshire Police
- West Yorkshire Fire service
- Kirklees Environmental Health Kirklees Planning Authority
- Kirklees Planning Authority
- Kirklees Safeguarding Children Board
- Weights and Measures
- Home Office (Alcohol Licensing)
- Public Health
- Safer Kirklees
- KNH
- Adult Safeguarding
- Federation of licensed Victuallers Associations
- Honley Business Association
- Holmfirth Enterprise and Development
- Kirklees Community Association
- Kirklees Federation of small businesses
- Calderdale & Kirklees Manufacturing Association
- CHART Kirklees
- Kirklees Better Outcome Partnership
- Accent Group
- Connect Housing
- Together Housing
- Hanover Housing Association
- Stonham Housing
- Sadeh Lok Housing
- St Anne's Community Service
- Unity Housing
- Existing licence holders
- Members of the public

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**West Yorkshire Fire & Rescue**

Dear Kirklees Licensing Service

Thank you for giving this Authority the opportunity to comment on the proposed statement on future licensing policy.

I am certain that it will help to secure public safety, protect children from harm, prevent public nuisance and prevent crime and disorder whilst encouraging a sustainable leisure and entertainment industry within Kirklees.

The West Yorkshire Fire & Rescue service looks forward to working with the Council in promoting the four licensing objectives.

Yours faithfully

Nigel Thompson Charlston QFSM, MCGI, GFireE.  
Head of Fire Engineering, Planning & Licensing

**Councils Response**

The Council welcomes the support from West Yorkshire Fire & rescue.

**West Yorkshire Trading Standards**

The supply of cheap and illicit tobacco significantly undermines the government's policy of using tax to maintain the high price of tobacco and help reduce smoking. Dealers in cheap and illicit tobacco products reap the financial benefits of supplying cheap cigarettes and tobacco at the expense of legitimate retailers by providing unfair competition to shops selling the genuine tax paid products. This may lead to honest retailers closing down and causing local economies to suffer. The supply of illicit and counterfeit tobacco products costs the taxpayer over £2.5 billion per year in lost revenue. This money is diverted into the pockets of organised criminal gangs with links to modern slavery and even terrorism.

Section 13.4 of the current licencing policy states that when the premises is being used for criminal activities, it is expected that revocation of the licence, even in the first instance, will be seriously considered.

This has been replaced in the draft of the proposed licencing policy with section 13.5 which states when the premises is used for criminal activities, such as the supply of drugs or money laundering, it will be viewed particularly seriously.

This appears to be a softening of the council's stance against the trade in counterfeit/Illicit tobacco with the prompt for licence revocation being removed.

It has also become normal practice now, when a licence is revoked, for a new application to be immediately submitted. This is clearly being done by an associate of the licence and is done in the appeal period or even prior to the review hearing taking place. This undermines the whole process as although the licence has been

revoked, due to deliberate criminal activity, the premises never actually stops selling alcohol.

This organisation would like to recommend that once a review application has been submitted then no new or transfer applications will be considered until the review hearing has taken place. If the licence is revoked then a minimal time period is set by the panel, during which no new applications will be considered.

Best regards  
West Yorkshire Trading Standards

### **Councils Response**

The Council have noted Trading Standards comments however the Licensing Act 2003 places the Council, in its capacity as Licensing Authority, under a duty to accept any and all applications for a licence irrespective of whether a review is taking, or has taken, place; and each application has to be considered on its own merits. As such, it is not within the Licensing Authorities powers to refuse to consider and application until a review hearing has taken place, nor is it within the Licensing Authorities power to stipulate a minimum time period elapse before a new application is submitted, if a licence has been revoked.

### **Member of the Public**

I just wanted to make the observation that in my opinion the sale of alcohol in premises which is then consumed in the street, pavement or road adjoining should be routinely prohibited.

Thank you.

### **Councils Response**

The Council welcomed the member of public's observations however under the Licensing Act 2003 there are no powers that allow us to restrict the consumption of alcohol in public places. We do however take note of other powers such as 'Public Space Protection Orders'.

### **Member of the Public**

I believe that licensing hours are far too long and should be reduced, the reason for this is obvious & I believe the West Yorkshire Police would have requested this too. The Police are tied up in Huddersfield town Centre when really they should be patrolling the outlying areas. Due to the fact Licensing hours are far too long which has an adverse effect on the West Yorkshire Police, Para Medics and the Huddersfield Royal Infirmary A and E Dept.



a: Due to the lack of Police Officers because of austerity it has put a big strain upon the force, with more Police Officers having to work overtime to keep a presence on our streets.

b: Police Officers are tied up in town from about 22.00hrs until the very early hours of the morning due to the binge drinking, fighting and knife crime within the town centre.

c: Also Police Officers can be tied up from about 22.00hrs till the early hours of the morning with those arrested that have had to attend the Huddersfield Royal Infirmary A and E Dept.

d: Surely Kirklees Council have a Duty of Care for the Police that are out on the streets as well as the Para Medics and the NHS staff too.

I believe the Licencing Authority should allow drinking in Pubs from 10.00hrs till 23.00hrs, Last Orders 22.30hrs.

The Clubs should then open at 22.00hrs and close at 02.00hrs, Last Orders 01.30hrs.

This would alleviate the stress and strain on the Police and on the Para Medics which have a difficult job as it is, without this hassle every Friday and week end when they are on shift.

It would certainly help if the Take Away shops also shut their doors at 02.00hrs also then the crowds would dissipate off home.

It is the rowdiness of the town centre that stops the older person coming into the town for a pleasant drink and a nice meal at a restaurant.

I hope you take on board these ideas as it is certainly common sense.

## **Councils Response**

The Council welcomed the member of public's observations however the council do not have any jurisdiction on what applicants can request for when applying for a premises licence to sell alcohol.

The Council and/or the applicant must however consult with West Yorkshire Police as part of the application process. The Police then have the powers to request reduced hours or condition a licence to help promote one or more of the licensing objectives.

## **Member of the Public**

As a Kirklees resident, volunteer and career environmentalist, I am often involved in projects to remove litter from open spaces, riversides and canals throughout our borough. The summer of 2019 saw me working as a volunteer at festivals and events to tackle the growing problem of single use plastics which often end up as

litter and never recycled. Kirklees MC have declared a 'Climate Emergency' with the reduction of waste and increase in recycling high on the agenda.

I would like to put forward a case to restrict the sale of non – biodegradable (polystyrene) packaging and food utensils (plastic cutlery) and implement the condition to the licensee that only biodegradable (cardboard / paper) packaging be available from late night licensed premises offering refreshment in order to prevent public nuisance on the following bases:

- Plastic and polystyrene litter is persistent, unsightly and does not biodegrade. It is harmful to wildlife and ecosystems and makes its way into our rivers, canals and oceans. Cardboard packaging is less harmful, recyclable and will eventually degrade
- The litter associated from fast food outlets is a high proportion of all litter representing between 33% and 54% of litter collected by voluntary groups in 2018 – 19 according to Keep Britain Tidy (see appendix below)
- Litter collection is an unnecessary burden on Kirklees Council Funds. The national average litter collection fee is £28 per household per year – valuable funds which could be used for other more pressing services according to the Ministry of Housing Communities and Local Government

A number of residents, colleagues and volunteers are in support of the comments enclosed and we would ask you kindly to consider these adjustments to the Licensing Policy 2020 – 2025.

Kind regards

## **Councils Response**

The Council welcomes the suggestions made by the member of public and thanks them for their comments. Although the Council supports this matter, the Council hold no jurisdiction under the Licensing Act 2003 to restrict take-a-ways use of single use plastics.

## **Kirklees Public Health**

Public Health asked for the following points to be considered;

- Online businesses – there isn't anything that specifically relates to this but it seems more common now and wonder if there should be something highlighted about this; often there needs to be emphasis on age verification and avoiding purchase/consumption by minors
- The section on Impact of activity – wondering if there could be something mentioned about considering the impact of licensed activity in its widest sense (e.g. impact of low pricing which can encourage harmful drinking by those most likely to be vulnerable)

- Section 8.24 – also relating to the above point – perhaps something about a source of advice from public health that might help to reduce negative impact on citizens and support responsible operating.

### **Councils Response**

The Council welcomes the suggestions made by Kirklees Public Health, and can respond to say that the suggestions made are being added to the policy.

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